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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/854,613

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Peter G. Capek

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SR

Office Action Summary	Applicati n No.	Applicant(s)	
	09/854,613	CAPEK ET AL.	
	Examiner	Art Unit	
	Joseph A. Fischetti	3627	

-- The MAILING DATE f this c mmunication appears on the c ver sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002 .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20,22 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 12-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11,25 and 20,22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Introduction

This Action follows from Applicant's filing of an RCE application dated 11/18/02. The indicated objected to subject matter of claim 4 has been reconsidered because of new art to Hartman et al. and a rejection now based upon 35 USC Sec. 101 which has now been applied to all claims as seen below. Any inconvenience this change of position may have caused applicant is regretted.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. On lines 8 and 9, it is unclear how a location is available and what is being taken relative to what?

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11, 20, 22, and 25⁴⁴ are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention fails to relate the recited method steps with the technical arts. That is, Applicant has

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failed to recite the method of providing traveler services in combination with a computer system to give an otherwise non-technical art based claim, a statutory basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 20, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme et al. in view of Hartman et al.

Re claims 1-11, 20, 22 and 25, DeLorme et al. disclose a method for providing a service for travelers to acquire items at the traveler's destination comprising the steps of:

receiving a request from a traveler for obtaining at least one item at a location indicative of a destination location of the traveler (205), the request including travel data comprising the traveler's time of arrival and destination (111 Fig 1a), and item data comprising data indicative of items being requested (111, Fig.1A);

arranging for the at least one item to be supplied (231);

arranging for the at least one supplied item to be delivered to the location indicated by the traveler's destination at a time indicated by the traveler's arrival time (231); and conducting a transaction with the traveler for the traveler to obtain the at least one item (209). *However this reference does not teach the steps of: arranging for a supplier who will have an item available at the destination point; finding a shipper who will ship to a given destination and using the shipper to effect shipping.*

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However, Hartmann et al. do teach such steps at 101 in which a supplier is presented who carries an item; at 103a when any destination can be entered for delivery of the item; and the selection of a shipper is found at 108 and accessed by the user.

Re claim 3, whether one orders from a supplier and leaves to the supplier who the shipper is not deemed to be a point of patentability because it takes what is known in the art as one step order say, from Sky Mall, for example, and breaks it into two steps.

Re claim 5: registering each unregistered traveler making a request by accepting and storing personal data and preference data about the traveler see DeLorme et al. (col.37, lines 3-66;col.35 lines9-60);

storing the request as history data (col. 36 line 14;

accessing the personal data, preference data and history data including previously stored requests of the traveler (col.39, lines 19-67); and

providing suggestion data to the traveler based on the accessed personal data, preference data and history data of the traveler, the suggestion data providing suggestions for requesting items (col. 40, lines30-56).

Re claim 6: accessing a data collection storing data about at least one geographic location see DeLorme et al. (Col. 32 lines 46-67);

retrieving data about the destination location of the traveler from the data collection about geographic locations Col. 32lines 46-67,col.33, lines 1-14); and

providing suggestion data to the traveler based on the retrieved data about the destination location of the traveler, the suggestion data providing suggestions for requesting items Col. 42 (conversation-like searching is suggestion data.)

Re claims 7 and 8: since the system disclosed by DeLorme et al. does allow for customized travel plans with a mix of arrangements, it would be obvious to include as a

the input data to DeLorme et al data which is attendant to an individual's personal needs such as for example that which would be necessary for one who is visually impaired. Also, official notice is taken with respect to the old and notorious practice of airline reservationist taking data on a physical impairment and providing different meals or wheel chair service based upon the expressed impairment.

Re claim 11: official notice is taken with respect to virtual matching programs such as found in interior decorating programs.

Claims 1,2,9,10,20,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Southwest Airlines web page.

Southwest airlines web page discloses a method for providing a service for travelers to acquire items at the traveler's destination comprising the steps of:

- receiving a request from a traveler for obtaining at least one item at a location indicative of a destination location of the traveler (A), the request including travel data comprising the traveler's time of arrival and destination (B), and item data comprising data indicative of items being requested (C);

- arranging for the at least one item to be supplied (D);

- arranging for the at least one supplied item to be delivered to the location indicated by the traveler's destination at a time indicated by the traveler's arrival time (D);

and

- conducting a transaction with the traveler for the traveler to obtain the at least one item (D); and

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official notice is taken to the obvious and probably an inherent part of this web page which is the steps of transacting with the supplier, i.e. Hertz car rental agency, which is also the shipper to effect purchase of the rental agreement.

Re claim 2: for each of the at least one requested items the steps of:

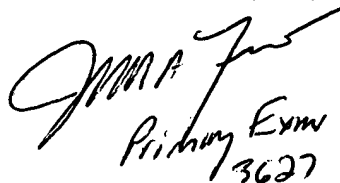
accessing a collection of at least one supplier of the requested items (E,F), each supplier of the collection of at least one supplier having a location and having a collection of at least one item available for being obtained by the traveler;

selecting a supplier from the collection of the at least one supplier in accordance with availability of the item and the location of the supplier relative to the destination of the traveler (inherent in any supplier by definition is inventory location is done as a result of destination selection); and arranging for the selected supplier to supply the item.

Re claim 9: inherent in any internet based program data are images and descriptions.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Primary Examiner Joseph A. Fischetti at telephone number (703) 305-0731.


Primary Exam
3627